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20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**

22 **IN RE ONLINE DVD RENTAL**
23 **ANTITRUST LITIGATION**

Master File No. M:09-CV-2029 PJH

MDL No. 2029

Hon. Phyllis J. Hamilton

25 **This document relates to:**
26 **ALL ACTIONS**
27

**STIPULATION AND [PROPOSED]
PRETRIAL ORDER NO. 3 RE CERTAIN
PROCEDURAL GUIDELINES TO BE
FOLLOWED IN MDL No. 2029
AS MODIFIED BY THE COURT**

1 WHEREAS, by Order dated April 10, 2009, the Judicial Panel on Multidistrict Litigation
2 (“JPML”) centralized all cases in MDL No. 2029, *In re Online DVD Antitrust Litigation*, before this
3 Court (“JPML Order”);

4 WHEREAS, the Court entered the JPML Order on April 15, 2009, creating MDL Master
5 Docket M:09-CV-2029 PJH (“Master Docket”), to which all actions subject to that Order have been or
6 will be centralized in this Court pursuant to 28 U.S.C. § 1407;

7 WHEREAS, the JPML issued a Conditional Transfer Order (“CTO-1”), which, upon its entry,
8 shall transfer those Tag Along Cases listed therein for centralization in this Court pursuant to 28
9 U.S.C. § 1407;

10 WHEREAS the JPML may issue subsequent conditional transfer orders, transferring other
11 actions to this Court as Tag Along Actions (“Other CTOs”) from time to time;

12 WHEREAS, by Order dated April 30, 2009, all related cases under Civil Local Rule 3-12
13 whenever filed shall be centralized in this Court pursuant to 28 U.S.C. § 1407 (“Related Case Order”);

14 WHEREAS, all cases subject to one or more of the JPML Orders; CTO 1, Other CTOs, or the
15 Related Case Order have or will be centralized in the Master Docket for consolidated or coordinated
16 pretrial proceedings pursuant to 28 U.S.C. § 1407 (“Consolidated Actions”);

17 The undersigned do hereby agree and stipulate that upon the entry of this [Proposed] Order:

18 1. The terms of this Order shall apply to all Consolidated Actions.

19 2. When a Consolidated Action is a case filed in, removed to, related to, or transferred to
20 this Court, the Clerk of the Court shall place a copy of this Order in the separate file for such action
21 and make an appropriate entry in the Master Docket.

22 3. Counsel shall call to the attention of the Court and the Clerk the filing, relation, or
23 transfer of any case which might properly be centralized with the Consolidated Actions (“New
24 Action”). Mailing or other delivery of a copy of this Order by Defendants’ counsel or Plaintiffs’
25 counsel, as appropriate, to the counsel in any New Action shall constitute valid notice for purposes of
26 establishing its applicability to such action in accordance with this Order.

27 4. This Order shall apply to all New Actions, unless a plaintiff in such a case objects to the
28 applicability of this Order to its case by filing with the Court, within twenty-one (21) days after being

1 centralized in MDL No. 2029, an application for relief from this Order, and that application is granted
2 by the Court for good cause shown.

3 5. Any operative Consolidated Amended Complaint filed in the Consolidated Actions shall
4 serve to bind all Plaintiffs that are party to any Consolidated Action or any New Action purporting to
5 represent a class of Netflix or Blockbuster Online subscribers, or both, such as the case may be, which is
6 similar in kind or substance to that defined in any operative Consolidated Amended Complaint pending
7 in MDL No. 2029.

8 6. All pleadings, motions, and other court papers, hereafter filed in the Master Docket
9 shall bear the following caption:

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12

13 IN RE ONLINE DVD RENTAL ANTITRUST LITIGATION	Master File No. M:09-CV-2029 PJH MDL No. 2029 Hon. Phyllis J. Hamilton
16 This document relates to:	NAME OF FILING

19
20 7. When a pleading or paper is intended to be applicable to all actions to which this Order
21 is applicable, the words "ALL ACTIONS" shall appear immediately after the words "This document
22 relates to:" in the caption set out above.

23 8. When a pleading or paper is intended to be applicable only to some, but not all, of the
24 Consolidated Actions, this Court's individual docket number and case caption for each action to which
25 the pleading or paper is intended to be applicable shall appear immediately after the words "This
26 Document Relates To:" in the caption described above.

1 9. All filing and service shall be made by electronic means in compliance with the Rules
2 and Orders of this Court. When a pleading or paper is filed applicable to "ALL ACTIONS," said filing
3 need be made only once in the Master Docket; no further copies need be filed or other docket entries
4 made.

5 10. When a document is filed and is not applicable to ALL ACTIONS, said pleading or
6 paper shall be filed in both the Master Docket and the individual docket(s) of the Action or
7 Actions to which the document pertains. At the time of electronic filing in accordance with the
8 Rules of this Court, the parties will submit one additional hard copy of each document to Chambers.
9 Copies of any Proposed Orders also shall be sent via e-mail to Chambers in Microsoft Word format to
10 pjhPO@cand.uscourts.gov.

11 11. Any attorney not a member of the bar of this Court representing a party in any of the
12 Consolidated Actions, who is a member in good standing of the bar of the highest court of any state,
13 territory, or the District of Columbia, is admitted *pro hac vice* in the Consolidated Actions., upon the filing
14 of a declaration that he or she agrees to abide by the Standards of Professional Conduct set forth
15 in ~~DATED: July 2, 2009~~ in Civil L.R. 11-4 and payment of admission fee.

15 Respectfully Submitted,

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Who attest in accordance with General Order No. 45 X. B. that concurrence in the filing of the document has been obtained from each of the undersigned counsel:

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[PROPOSED] ORDER

IT IS SO ORDERED.

DATED: 7/7/09

